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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|---|-------------|----------------------|---|------------------|
| 10/820,323  | 04/08/2004  | Jason Cerrano        | 19215-5   | 8522             |
| <div>7590      03/27/2007<br/>John S. Beulick<br/>Armstrong Teasdale LLP<br/>Suite 2600<br/>One Metropolitan Square<br/>St. Louis, MO 63102</div> |             |                      | <div>EXAMINER<br/>WOLFE, DEBRA M</div> <div>ART UNIT      PAPER NUMBER<br/>3725</div> |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE  |             | MAIL DATE            | DELIVERY MODE   |                  |
| 3 MONTHS  |             | 03/27/2007           | PAPER   |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/820,323             | CERRANO, JASON      |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Debra Wolfe            | 3725                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |



## **DETAILED ACTION**

### ***Withdrawal of Allowance***

Applicant is advised that the Notice of Allowance mailed November 9, 2006 is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

Prosecution on the merits of this application is reopened on claims 1, 12-14, 16, 22 and 26 considered unpatentable for the reasons indicated below.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the grooves (730) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It is noted that applicant indicates the grooves (730) are shown in figure 7 however, figure 7 only shows that the outer face (722) is a flat/straight line with no grooves (730) shown.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must



be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 12 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Cerrano et al (US Patent # 6,722,176). Cerrano et al discloses a tool comprising of an elongate body (12) and a pair of opposing arms (14, 14) comprising of a first arm (54) and a second arm (56) extending outwardly from the body (12), at least one of the first arm (54) and the second arm (56) slidably coupled to the body (12) (see column 3, lines 42-44), each of the arms (54, 56) comprising an inner face (90) and an outer face (92), at least one of the first arm (54) inner face (90) and the second arm (56) inner face (90) comprising a plurality of teeth (100) extending along at least one of the first arm inner face (90) and the second arm inner face (90) substantially



from a radially outer tip (96) of the face to the body (12) (see figs. 1, 2, 4 and 5 which show the teeth 100 extending from the tip 96 to the body 12), at least one of the first arm (54) outer face (92) and the second arm (56) outer face (92) comprising a plurality of grooves therein (the grooves are defined by the recessed portions between the upper ends of the teeth 104, see figs. 1 and 2). Cerrano et al. shows in figures 1 and 2 that the areas between the points of the teeth form grooves. Cerrano et al. discloses in column 4, lines 3-8 and column 7, lines 11-15 that the teeth (100) extend over the width of the face (90), which suggests that the teeth (104) would also extend over the width of the outer face (92). Cerrano et al. also discloses in column 4, lines 25-26 that the teeth (104) extend over the gripping portion (62). In view of the above suggestions by Cerrano et al., each tooth (104) would extend the width of the outer face, i.e. each tooth would be elongated, which means the recesses between the teeth would be elongated and would form grooves.

With reference to claim 2, figures 1 and 2 show the first arm (54) being substantially parallel to and faces the second arm (56).

With reference to claim 3, figures 1 and 2 show the first arm (54) inner face (90) located between the first arm (54) outer face (92) and the second arm (56) and further shows the first arm (54) and second arm (56) inner faces (90) each having a plurality of teeth (100).

With reference to claims 4 and 5, Cerrano et al further discloses that the body (12) has an axis of symmetry (28) and each arm (54, 56) is slidable along the body (12) in a direction that is substantially parallel to the axis of symmetry (28).

With reference to claim 6, Cerrano et al discloses the first arm (54) is substantially parallel to the second arm (56) (see fig. 1 and 2) and the first and second arms (54, 56) are



slidable along the body (12) such that the first arm (54) remains substantially parallel to the second arm (56) (see column 2 lines 5-9)

With reference to claims 7-9, Cerrano et al discloses a collar (16) that is configured to couple to the body (12) and is threadingly coupled with the first arm (54) such that it limits an amount of travel of the first arm (54).

With reference to claim 10 and 11, Cerrano et al shows in figure 1 the first and second arms (54, 56) each having a coupling portion (60) and a gripping portion (62) wherein each of the coupling portions (60) is configured to couple each arm to the body (12) and each of the gripping portion (62) extends from the coupling portion (60) and has a substantially triangular cross-sectional profile wherein the plurality of grooves (recessed portions between the upper ends of the teeth 104) extend from the gripping portion (62) to a tip of the coupling portion (60).

With reference to claim 12, figure 1 shows the plurality of grooves (recessed portions between the upper ends of the teeth 104) are substantially parallel.

With reference to claim 13, figure 1 shows the first arm (54) outer face (92) and the second arm (56) outer face (92) each having a plurality of grooves (recessed portions between the upper ends of the teeth 104) defined therein.

2. Claims 14, 16 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Cerrano et al (US Patent # 6,722,176). Cerrano et al discloses a rescue tool for use with emergency extrications from a structure comprising of a shaft (12) having a centerline axis (28) and a pair of opposing arms (14, 14) comprising of a first arm (54) and a second arm (56) extending outwardly from the shaft (12), at least one of the first arm (54) and the second arm (56) slidably coupled to the shaft (12) (see column 3, lines 42-44) and is moveable along the shaft (12) in a



direction substantially parallel to the shaft centerline axis (28), each of the arms (54, 56) comprising an inner face (90) and an outer face (92), at least one of the first arm (54) inner face (90) and the second arm (56) inner face (90) comprising a plurality of teeth (100) extending along at least one of the first arm inner face (90) and the second arm inner face (90) substantially from a radially outer tip (96) of the face to the body (12) (see figs. 1, 2, 4 and 5 which show the teeth 100 extending from the tip 96 to the body 12), at least one of the first arm (54) outer face (92) and the second arm (56) outer face (92) comprising a plurality of grooves therein (the grooves are defined by the recessed portions between the upper ends of the teeth 104, see figs. 1 and 2) and at least one of the first arm (54) and the second arm (56) extends substantially perpendicularly outward from the shaft (12) (see fig. 1). Cerrano et al. shows in figures 1 and 2 that the areas between the points of the teeth form grooves. Cerrano et al. discloses in column 4, lines 3-8 and column 7, lines 11-15 that the teeth (100) extend over the width of the face (90), which suggests that the teeth (104) would also extend over the width of the outer face (92). Cerrano et al. also discloses in column 4, lines 25-26 that the teeth (104) extend over the gripping portion (62). In view of the above suggestions by Cerrano et al., each tooth (104) would extend the width of the outer face, i.e. each tooth would be elongated, which means the recesses between the teeth would be elongated and would form grooves.

With reference to claims 15, figure 1 shows each of the arms (54, 56) inner face (90) having a plurality of teeth (100).

With reference to claim 16, figure 1 shows the plurality of grooves (recessed portions between the upper ends of the teeth 104) are defined across each of the arms (54, 56) outer face (92).



With reference to claim 17, figures 1-5 show the first arm (54) being substantially parallel to the second arm (56).

With reference to claim 18, Cerrano et al discloses in column 2 lines 5-9 each arm (54, 56) is slidable coupled to the shaft (12) and moveable in a direction substantially parallel to the shaft centerline axis (28).

With reference to claim 19, Cerrano et al discloses the first and second arms (54, 56) are slidable coupled to the shaft (12) such that the first arm (54) remains substantially parallel to the second arm (56) (see column 2 lines 5-9)

With reference to claim 20 and 21, Cerrano et al shows in figure 1 the first and second arms (54, 56) each having a coupling portion (60) and a gripping portion (62) wherein each of the coupling portions (60) is configured to couple each arm to the shaft (12) and each of the gripping portion (62) extends from the coupling portion (60) and has a substantially triangular cross-sectional profile wherein the plurality of grooves (recessed portions between the upper ends of the teeth 104) extend from the gripping portion (62) to a tip of the coupling portion (60).

With reference to claim 22, figure 1 shows the plurality of grooves (recessed portions between the upper ends of the teeth 104) are substantially parallel.

With reference to claim 23-25, Cerrano et al discloses a collar (16) that is configured to couple with the shaft (12) and is threadingly coupled with the first arm (54) such that it limits an amount of travel of the first arm (54).

3. Claims 26-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Cerrano et al (US Patent # 6,722,176). Cerrano et al discloses a method of performing an emergency extrication from a structure with a rescue tool comprising of providing a rescue tool including a





body (12) and a pair of arms (14, 14) coupled to the body (12) and extending outwardly from the body (12), wherein at least one of the pair of arms (14, 14) includes an inner face (90) including a plurality of teeth (100) extending along the inner face (90) substantially from the body to the tip of the arm (see fig. 1, 2, 4 and 5) and an outer face (92) including a plurality of grooves (recessed portions between the upper ends of the teeth 104, see figs. 1 and 2) defined therein, positioning the rescue tool adjacent the structure such that at least one of the pair of arms (14, 14) is positioned such that the plurality of grooves (recessed portions between the upper ends of the teeth 104, see figs. 1 and 2) contacts the structure and performing the emergency extrication from the structure (see column 8 lines 6-50).

With reference to claim 27 column 5 lines 38-41 and column 8 lines 28-29 disclose slidably adjusting a position of at least one of the arms (54, 56) with respect to the tool body (12), such that the arm is moved in a direction that is substantially parallel to an axis of symmetry (28) of the tool body (12).

With reference to claim 28 column 5 lines 38-41 and column 8 lines 28-29 disclose slidably adjusting a position of at least one of the arms (54, 56) with respect to the tool body (12), such that the arms (54,56) remain substantially parallel with respect to each other and remain substantially perpendicular with respect to the tool body (12).

With reference to claim 29 column 5 lines 43-45 and column 8 lines 28-29 disclose slidably adjusting a position of each arm with respect to the tool body (12) such that each arm is moved in a direction that is substantially parallel to an axis of symmetry (28) of the tool body (12).



With reference to claim 30, column 8 lines 36-38 disclose adjusting a position of at least one arm (56) using a collar (16) that is coupled to the tool body (12) and the arm (56) being repositioned.

With reference to claim 31, column 8 lines 36-38 disclose positioning the rescue tool and limiting an amount of travel of at least one arm by adjusting a collar (16) coupled to the tool body (12) and to at least one arm (54,56).

With reference to claim 32, column 8 lines 36-42 disclose increasing a distance (412) between the pair of arms (54, 56) such that at least the rescue tool forcibly moves a portion of the structure.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

### ***Conclusion***

Claims 2-11, 15, 17-21, 23-25 and 27-32 are objected to as being dependent upon a rejected base claim.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra Wolfe whose telephone number is (571) 272-1904. The examiner can normally be reached Monday - Thursday 7am - 4:30pm with alternating Friday 7am - 3:30pm.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached at (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Debra Wolfe  
Examiner  
Art Unit 3725

**DERRIS H. BANKS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**